IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 14160 of 2004

Between:

P. Chengalrayulu, S/o Late Ramaiah, Hindu,
R/o Karakambadi Village, Renigunta Mandal,
Chittoor District.

..... PETITIONER

AND

1. Government of Andhra Pradesh, rep. by District Collector,
   Chittoor District, Chittoor.
2. Government of Andhra Pradesh, rep. by Revenue Divisional Officer,

Tirupati,
   Chittoor District.
3. Mandal Revenue Officer, Renigunta Mandal,
   Renigunta, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a *Writ of Mandamus* or any other appropriate Writ, order or direction, declaring the action of the 3rd respondent herein in dispossessing the petitioner from the land in Sy.No. 2/2 to an extent of Ac. 3-43 cents situated in Karakambadi Village, Renigunta Mandal, Chittoor District in respect of which DKT Patta was granted by the then Tahsildar, Chandragiri, vide Proceedings No. DKT No. 527/4/77, dated 16-2-1968 as illegal, arbitrary and violative of Article 14, 19 (1) (g) and 21 of the Constitution of India and consequently direct the 3rd respondent not to interfere with the possession and enjoyment of the petitioner over said land.

Counsel for the Petitioner: MR.KAMBHAM MADHAVA REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking a declaration that the alleged action of the third respondent in dispossessing the petitioner from the land in Survey No.2/2 to an extent of Ac.3.43 cents situated in Karakambadi Village, Renigunta Mandal, Chittoor District in respect of which DKT patta was granted by the then Tahsildar, Chandragiri, as arbitrary and illegal and violative of Article-14, 19 (1) (g) and 21 of the Constitution of India.

2. The case of the petitioner is that the land in question to an extent of Ac.3.43 cents situated in Survey No.2/2 of Karakambadi village, Renigunta Mandal, Chittoor District, was assigned in favour of P. Subbaiah, who is his paternal uncle. The said P. Subbaiah died on 19.03.1982 issueless. The land in question has been in possession and enjoyment of the joint family members from the year 1960. After the death of Sri P. Subbaiah, the petitioner continued in possession and enjoyment and he has been cultivating the said land by paying taxes to the Government. It is further stated that the third respondent-Mandal Revenue Officer, Renigunta Mandal issued a show cause notice in the month of September, 1986 which was received by the petitioner on 30.09.1986 alleging that the petitioner was not cultivating the afore said land and calling upon him to show-cause as to why the patta should not be cancelled. The said show cause notice was addressed in the name of his paternal uncle P. Subbaiah, who expired on 19.03.1982. The petitioner has submitted a detailed reply on 07.10.1986 stating that the original assignee has expired and the aforesaid land has been devolved on the petitioner in the family partition and he has been cultivating the lands investing huge amounts. Thereafter, no further orders were passed and the petitioner was under the impression that the further proceedings were dropped. While so, on 05.8.2004 about 20 persons came to the petitioner's land in question and attempted to dispossess the petitioner high-handedly. Then the petitioner came to know that the third respondent has issued a patta in favour of certain third parties and consequently steps are

being taken to take over the land in question. Since no order has been passed cancelling the patta granted in favour of late P. Subbaiah, this writ petition is filed seeking a declaration that the action of the third respondent in attempting to dispossess the petitioner from the land in question as arbitrary and illegal.

On behalf of the third respondent, a counter affidavit has been filed in which it is admitted that the land in question was originally assigned in favour of P. Subbaiah. However, it is stated that since the original assignee has failed to bring the land under cultivation within the stipulated period of three years, the then Mandal Revenue Officer, Renigunta has issued a show cause notice to the assignee vide Ref.No.B/1396/86, dt.05.09.1986 and owing to the death of the original assignee, the same was received by the petitioner herein and the petitioner has submitted his reply. After verification of the records and after examining the reply, the then Mandal Revenue Officer has resumed the land in proceedings No.B/1396/86, dt. 12.10.1986 and the cancellation order was sent to the original assignee by post. As such, the contention of the petitioner that he has not received any communication is incorrect. It is further stated that the land in question was alienated in favour of A.P. Electronics Development Corporation Limited, A.P., Hyderabad as per G.O.Ms.No.145, Revenue (Assn.IV) Department, 2.3.1991. The other allegation made by the petitioner that the third parties are attempting to occupy the land in question has been denied.

I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

It is not in dispute that the original assignee died on 19-03-1982 and that the petitioner is being continued in possession of the land in question. Admittedly, the petitioner has submitted an explanation in pursuance of the show-cause notice issued in the name of P.Subbaiah. Though, the 3rd respondent pleaded that the land in question was resumed vide proceedings dated 12-10-1986, nothing has been placed before this Court to show that the said order was actually served on the petitioner. It is relevant to note that though the order of resumption was said to have been passed in the year 1986,

admittedly the petitioner has been allowed to continue in possession till date.

It is also relevant to note that though the third respondent states that the land in question was alienated in favour of A.P. Electronics Development Corporation Limited in the year 1991, subsequently an extent of 250 acres including Ac.3-19 cents in possession of the petitioner was resumed from the A.P. Electronics Development Corporation Limited and the possession was handed over to the Executive Officer, Tirumala Tirupati Devasthanams, Tirupati on 18-03-2002, however, in view of a subsequent decision taken by the Board of T.T.D. regarding allotment of land to its employees at Perur village, the entire land of 250 acres was again handed over to the third respondent on 13-12-2003. Subsequently, a decision has been taken to allot the said land for the purpose of providing house sites to the landless poor beneficiaries of Tirupati Town.

In the circumstances and particularly keeping in view that the land in question as on today has not been allotted to any third party, I deem it appropriate to direct the third respondent to pass appropriate orders afresh after considering the explanation submitted by the petitioner.

Accordingly, the order dated 12-10-1986 is set aside and the Writ Petition is disposed of granting liberty to the petitioner to produce the material, if any, to substantiate his case within four weeks from today. Thereafter, the third respondent shall consider the explanation of the petitioner in the light of the material, if any, submitted by the petitioner and pass appropriate orders within four weeks thereafter. Till such time, the Status Quo obtaining as on today in respect of the nature and possession of the land in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

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(G. ROHINI,J)

7th December, 2004

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Note: Issue C.C. by Monday (13.12.2004)

To

1. The District Collector, Government of Andhra Pradesh,

   Chittoor District, Chittoor.

2. The Revenue Divisional Officer, Government of Andhra Pradesh,

Tirupati, Chittoor District.

3. Mandal Revenue Officer, Renigunta Mandal,
   Renigunta, Chittoor District.

4. Two CCs to G.P. for Revenue, High Court Buildings,

Hyderabad (OUT).

5. Two C.D. copies